

NORMAN B. BLUMENTHAL, SBN 068687
 KYLE R. NORDREHAUG, SBN 205975
 APARAJIT BHOWMIK, SBN 248066
 RUCHIRA PIYA MUKHERJEE, SBN 274217
 BLUMENTHAL, NORDREHAUG &
 BHOWMIK
 2255 Calle Clara
 La Jolla, CA 92037
 Tel: 858.551.1223
 Fax: 858.551.1232
 Website: www.bamlawca.com

Attorneys for Plaintiff
 CHRISTOPHER VALVERDE, JR.

REBECCA EISEN, SBN 96129
 reisen@morganlewis.com
 THERESA MAK, SBN 211435
 tmak@morganlewis.com
 ANDREW FREDERICK, SBN 284832
 afrederick@morganlewis.com
 MORGAN, LEWIS & BOCKIUS LLP
 One Market, Spear Street Tower
 San Francisco, California 94105-1126
 Telephone: 415.442.1000
 Facsimile: 415.442.1001

Attorneys for Defendant
 COGENT COMMUNICATIONS, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION



CHRISTOPHER VALVERDE, JR.,
 an individual, on behalf of himself, and on
 behalf of all persons similarly situated,

Plaintiff,

v.

COGENT COMMUNICATIONS, INC.,
 a Delaware corporation; and DOES 1 through
 50, inclusive,

Defendants.

Case No. 5:13-cv-00876-EJD 1/10/2014

JOINT STIPULATION OF DISMISSAL

FRCP 41(a)(1)(A)(ii)

Plaintiff Christopher Valverde, Jr. ("Plaintiff") and Defendant Cogent Communications, Inc. ("Cogent" or "Defendant") (collectively, "the Parties"), by and through their respective counsel of record, enter into this Stipulation to dismiss all claims brought in the above-captioned action. The Parties hereby stipulate and agree as follows:

WHEREAS, Plaintiff's First Amended Complaint ("FAC") alleges individual claims on behalf of the named Plaintiff as well as class and representative claims;

WHEREAS, Plaintiff has decided to dismiss this action pursuant to Federal Rules of Civil Procedure ("FRCP") Rule 41(a)(1)(A)(ii);

WHEREAS, under FRCP Rule 23, Court approval of the dismissal of Plaintiff's class

claims is not required because it is not a voluntary dismissal of “the claims, issues, or defenses of a *certified* class.” FRCP 23(e) (emphasis added); *see also* Advisory Committee Notes on 2003 Amendments to Rule 23, Subdivision (e), Paragraph (1) (“[t]he new rule requires [court] approval only if the claims, issues or defenses of a *certified* class are resolved by ... voluntary dismissal”) (emphasis added);

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and through the Parties’ respective counsel, as follows:

1. Plaintiff’s individual claims are hereby dismissed with prejudice pursuant to FRCP Rule 41(a)(1)(A)(ii);
2. Plaintiff’s class action and representative action claims are hereby dismissed without prejudice to other aggrieved and/or putative class members, pursuant to FRCP Rule 41(a)(1)(A)(ii);
3. Plaintiff will not reassert or refile any class, collective, or representative action claims that were, or could have been, alleged in this action, including any claims under the Private Attorney General Act or the Fair Labor Standards Act; and
4. The Parties will each bear their own costs and fees with respect to the prosecution and defense of the claims asserted in the action. The Clerk shall close this file.

IT IS SO STIPULATED.

///

///

///

///

///

///

///

///

///

1 Dated: January 9, 2014

BLUMENTHAL, NORDREHAUG & BHOWMIK

2
3 By /s/ Aparajit Bhowmik

4 Aparajit Bhowmik
Attorneys for Plaintiff
CHRISTOPHER VALVERDE, JR.

5
6 Dated: January 9, 2014

MORGAN, LEWIS & BOCKIUS LLP

7
8 By /s/ Andrew Frederick

9 Andrew Frederick
Attorneys for Defendant
COGENT COMMUNICATIONS, INC.